

ATTORNEY DOCKET NO.
004578.1182

PATENT APPLICATION
09/930,369

2

REMARKS

Claims 1-30 are present in the application. In view of the remarks which follow, reconsideration of the application is respectfully requested.

Incomplete Office Action

Applicants respectfully object to the Office Action mailed on January 14, 2003, on the ground that it is not complete. More specifically, Applicants filed an Information Disclosure Statement (IDS) on December 30, 2002, as evidenced by the enclosed copy of an acknowledgment post card which lists the IDS and which bears a PTO mailroom date stamp of December 30, 2002. To the best of Applicants' knowledge, this IDS was in full compliance with the provisions of 37 C.F.R. §§1.97 and 1.98. The provisions of MPEP §609(C)(2) specify that "Examiners must consider all citations submitted in conformance with the rules and this section". Further, as discussed in MPEP §609(B)(1), an examiner's consideration of documents accompanying an IDS must be completed before the examiner issues the next office action on the merits. In the present situation, the pending Office Action was mailed two weeks after the PTO received the IDS filed on December 30, 2002. Applicants recognize that this IDS may not have reached the desk of the Examiner as of the date that the Office Action was mailed. Nevertheless, under PTO policy, the Office Action mailed on January 15, 2003 is incomplete, because it fails to show consideration of a previously-filed IDS.

Due to the fact that the Office Action is incomplete, Applicants are not required to respond to the issues raised in the Office Action. Nevertheless, in an attempt to expedite examination of the present application,

ATTORNEY DOCKET NO.
004578.1182

PATENT APPLICATION
09/930,369

3

Applicants are filing this Response in order to address the issues raised in the Office Action. However, Applicants do not waive their objection to the incompleteness of the Office Action, and respectfully request that the Examiner issue in due course a "first" Office Action which is complete.

Allowable Subject Matter

Noted with appreciation is the indication on page 8 of the Office Action that Claims 10-17 are directed to allowable subject matter, and would be allowed if rewritten in independent form. Claims 10-17 each depend indirectly from independent Claim 1, which is believed to be allowable for reasons discussed later. Accordingly, it is believed to be unnecessary to place Claims 10-17 in independent form at this time.

Comment on Statement of Reason for Allowance

In the paragraph which bridges pages 8-9, the Office Action offers a statement of reasons why Claims 10-17 recite allowable subject matter. Applicants agree that Claims 10-17 recite allowable subject matter. However, Applicants do not agree with the statement of reasons for allowance, for example to the extent that it attempts to paraphrase certain limitations from the claims using terminology and/or language which differs in some respects from the specific terminology and language that was selected for use in Applicants' claims. Applicants believe that the scope and interpretation of the claims should be determined by the terminology and language of the claims themselves, rather than by language selected by the Examiner to attempt to paraphrase certain limitations. Moreover, Applicants respectfully submit that the statement of

ATTORNEY DOCKET NO.
004578.1182

PATENT APPLICATION
09/930,369

4

reasons for allowance should not be interpreted to mean that there are no other reasons which separately and independently support the allowance of one or more of Claims 10-17.

Claim Objection

In the first paragraph on page 2, the Office Action objects to Claims 18 and 29, asserting that the phrase "light from externally of" appears to employ inconsistent grammatical usage. This ground of objection is respectfully traversed. Applicants have reviewed each of Claim 18 and 29, and believe that each of Claims 18 and 29 is grammatically proper. It is noted that the Office Action merely makes a conclusory statement that the indicated phrase appears to have a grammatical problem, without actually identifying any specific rule of grammar which the phrase is believed to violate. Accordingly, Applicants respectfully request reconsideration of the objection to Claims 18 and 29. If the Examiner is still of the opinion that these claims have a grammatical problem, the Examiner is respectfully requested to specifically identify why the indicated phrase is believed to be grammatically improper.

Independent Claim 1

Claim 1 stands rejected under 35 U.S.C. §102 as anticipated by Oikawa U.S. Patent No. 5,504,622. The Office Action relies on Figure 8 of Oikawa, where radiation from an image source 4 travels along two paths P1 and P2. The radiation on path P1 is reflected by a surface portion 18a of a mirror 18, is reflected by the windshield 2, and then travels to a viewing location 10. The radiation on path P2 is reflected by a different surface portion 18b of the mirror 18,

ATTORNEY DOCKET NO.
004578.1182

PATENT APPLICATION
09/930,369

5

is reflected by the windshield 2, and then travels to a different viewing location 11.

Contrary to the assertions in the Office Action, this embodiment of Oikawa does not have two different modes of operation, where the embodiment operates in only one of these two modes at any given point in time. Instead, the embodiment in Figure 8 of Oikawa has a single mode of operation, which is the mode specifically illustrated in Figure 8. In this single mode of operation, radiation which arrives at the viewing location 10 is always radiation which has been reflected by the surface portion 18a of the mirror 18. Contrary to the assertions in the Office Action, Oikawa does not disclose a further mode of operation in which the radiation arriving at viewing location 10 has been reflected by the surface portion 18b rather than by the surface portion 18a. In contrast, Claim 1 recites an apparatus which is "selectively operable in one of first and second modes", where radiation arriving at a viewing location is reflected by a first reflective surface in the first mode, and by a second reflective surface in the second mode.

As emphasized in MPEP §2131, a reference cannot anticipate a claim under §102 unless the reference discloses each and every element recited in the claim. The embodiment shown in Figure 8 of Oikawa does not have two modes of operation, and thus does not disclose each and every element recited in Claim 1. It is therefore respectfully submitted that Claim 1 is not anticipated by Oikawa, and notice to that effect is respectfully requested.

ATTORNEY DOCKET NO.
004578.1182

PATENT APPLICATION
09/930,369

6

Independent Claim 20

Independent Claim 20 also stands rejected under §102 as anticipated by Oikawa. Claim 20 is a method claim, whereas Claim 1 is an apparatus claim. Claim 20 includes limitations comparable to those discussed above in association with Claim 1. In particular, Claim 20 recites "directing the radiation from said image source to a viewing location according to a selected one of first and second modes", where the radiation is reflected by a first reflective surface in the first mode, and is reflected by a second reflective surface in the second mode. As discussed above in association with Claim 1, Oikawa does not disclose anything which is even remotely similar, and thus does not disclose each and every element recited in Claim 20. It is therefore respectfully submitted that Claim 20 is not anticipated by Oikawa, and notice to that effect is respectfully requested.

Dependent Claims

Claims 2-9 and 18-19 and Claims 21-30 respectively depend from Claim 1 and Claim 20, and are also believed to be allowable over the art of record, for example for the same reasons discussed above with respect to Claims 1 and 20.

Stringfellow U.S. Patent No. 5,361,165

Stringfellow U.S. Patent No. 5,361,165 was not used to reject either of independent Claims 1 and 20, but is used as part of the basis for rejecting some dependent claims. The dependent claims are believed to be allowable for reasons discussed above, and a specific discussion of Stringfellow is therefore not required. Nevertheless, in order to expedite examination of the present application, Applicants wish to

ATTORNEY DOCKET NO.
004578.1182

PATENT APPLICATION
09/930,369

7

point out that Stringfellow does not appear to disclose what the Office Action says it does.

In this regard, Figure 2 of Stringfellow discloses a mirror 40, the front side 46 of which reflects radiation from an image source 52 toward the eyes 18 of an operator. The mirror 40 is partially transparent, and has on its rear side an opaque mask 44 with openings 42. When light bulbs 38 behind the mirror are illuminated, some of the radiation from the light bulbs 38 can pass through the openings 42 and the partially transparent mirror 40, so that the eyes 18 see (1) the radiation from image source 52 which is reflected by the mirror, and (2) the radiation from the light bulbs 38 which passes through the openings 42 and through the partially transparent mirror.

The Office Action asserts that the mask 44 can reflect radiation from the image source 52 with a reflection characteristic which is different from the reflection characteristic of the surface 46. However, this is not even remotely how the Stringfellow mirror actually operates, because the mask 44 is not designed to reflect any radiation. Instead, the mask 44 merely defines the extent to which radiation from the light bulbs 38 can pass through the partially transparent mirror 40, which does not involve any form of reflection, much less reflection of radiation from the image source 52.

The Office Action also asserts that the mirror 40 of Stringfellow can move between two operational positions that represent two different modes of operation, where one mode of operation utilizes the reflectivity of the surface 46, and the other mode utilizes the reflectivity of the mask 44. First, as discussed above, the mask 44 of Stingfellow does not

reflect radiation during any mode of operation. Moreover, even though Figure 7 does show that the operational position of the mirror can be adjusted, the mirror has exactly the same mode of operation in each operational position, in that the surface 46 reflects radiation and the mask 44 does not.

The Office Action also notes that Stringfellow has a glare shield 74 (Figure 7). However, Applicants have claims reciting that first and second reflective surfaces are configured so as to minimize the amount of radiation reflected toward an image source. The glare shield 74 of Stringfellow is entirely separate from any reflective surface, and is completely irrelevant as to how any reflective surface could be configured to minimize the amount of radiation that it reflects toward an image source.

For the foregoing reasons, it is respectfully submitted that the Stringfellow patent discloses little or nothing of what the Office Action says it does. Consequently, Stringfellow is believed to have little relevance to any of the claims of the present application.

Conclusion

Based on the foregoing, it is respectfully submitted that all of the pending claims are fully allowable, and favorable reconsideration of this application is therefore respectfully requested. If the Examiner believes that examination of the present application may be advanced in any way by a telephone conference, the Examiner is invited to telephone the undersigned attorney at (214) 953-6684.

Although Applicants believe that no additional fees are due at this time, the Commissioner is hereby authorized to

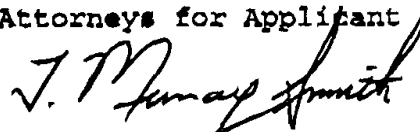
ATTORNEY DOCKET NO.
004578.1182

PATENT APPLICATION
09/930,369

9

charge any fee required by this paper, or to credit any overpayment, to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicant



T. Murray Smith
Reg. No. 38,222
(214) 953-6684

Date: February 12, 2003

BAKER BOTTS L.L.P.
2001 Ross Avenue
Suite 600
Dallas, TX 75201-2980
(214) 953-6500

Enclosures: Copy of Acknowledgment Post Card
Bearing PTO Mail Room Date
Stamp of 12/30/2002